IN THE UNITED STAT FOR THE DISTRIC	
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UNITED STATES OF AMERICA	
Plaintiff,	Criminal Action No. 06-76 (GMS)
v. CHIAN SPIRIT MARITIME ENTERPRISES VENETICO MARINE S.A., et al.	S, INC.,
Defendants.	X

DEFENDANTS, CHIAN SPIRIT MARITIME ENTERPRISES, INC. AND VENETICO MARINE, S.A.'s, OBJECTIONS AND REQUEST FOR PRETRIAL RULINGS AS TO THE ADMISSIBILITY OF THE FOLLOWING PORTIONS OF THE RULE 15 DEPOSITION TESTIMONY OF MARIO MANZANILLA.

COME NOW, moving defendants, Venetico Marine, S.A. ("Venetico") and Chian Spirit Maritime Enterprises, Inc. ("CSME")(collectively, "moving defendants"), who respectfully request that this Honorable Court consider and rule, before the voir dire of the jury panel, and out of the presence and hearing of the jury panel, as to the admissibility of the following Rule 15 deposition testimony by Mario Manzanilla, which the Government has stated it will seek to introduce at trial.¹

Specifically, Moving Defendants object to the admissibility of the following deposition testimony by Mario Manzanilla, an unlicensed "wiper" from the M/V IRENE E., on the following grounds. For the Court's ready reference, a correct and true copy of the transcript of the Rule 15 deposition of Mr. Manzanilla, conducted at the office of the

¹ For the Court's ready reference, Moving Defendants advise that in order to facilitate the deposition process, counsel for all parties agreed to expressly reserve making objections during the examination.

United States Attorney, 700 Nemours Building, 1007 Orange Street, Wilmington, Delaware, on Tuesday, July 18, 2006, is attached hereto as Exhibit "A".

Mario Manzanilla (Wiper)

As a preliminary matter, Moving Defendants respectfully advise the Court that, during his Rule 15 deposition examination, Mr. Manzanilla clearly, concisely and unambiguously testified that he, personally, *never* worked on and/or worked with any licensed marine engineers aboard the M/V IRENE E.M. with respect to use and/or operation of the oily water separator equipment.

In relevant part, and as the Court will note, Mr. Manzanilla testified, *inter alia*, to the following:

- Q Now, I'd like to talk a little bit about what you do on board the ship Mr. Manzanilla. You're not a licensed engineer; right?
- A No, sir.
- Q You don't hold a license as an engineer?
- A No, sir. I'm just an oiler and a wiper.
- Q Okay. And on board the Irene E.M., you weren't working as an oiler, right?
- A No, I am a wiper.
- Q Okay. So when you were on the Irene E.M., you were hired to work as a wiper; right?
- A Yes, sir.
- Q And is it fair to say that a wiper is the lowest-ranking member of the engine room team?
- A Yes, sir.
- Q Now, let's talk about the oily water separator. The oily water separator is operated by the engineers; right?
- A Yes, sir.
- Q You don't operate the oily water separator?
- A No, sir. I'm only an oiler. Only the oiler uses it.
- Q Okay. So that the answer is clear, you would agree with me that you don't operate the oily water separator?
- A No, sir.
- Q And you don't have any responsibility to maintain the oily water separator, do you?

² Undersigned counsel respectfully submits that this is a transcription error, as the witness testified, and the transcript should read: "No sir. I'm only an oiler. Only the engineers use it."

- A No, sir. Just the main engine is what I'm entail.
- Q Mr. Manzanilla, yes or no: You don't have any -
- A No, sir. No, sir.
- Q Okay. Let me finish my question. Mr. Manzanilla, you would agree with me that you don't have any responsibility to maintain the oily water separator?
- A No sir.
- Q So that means you agree with me, yes?
- A Yes, sir.
- Q It's also a correct statement that you don't have any responsibility to repair the oily water separator?
- A Yes, sir.
- Q You don't make the decision to use the oily water separator if it's being used, do you?
- A No. sir.
- Q And you don't make the decision not to use it if the chief engineer decides not to use it; correct?
- A Yes, sir.
- Q So all questions Mr. Phillips asked you about the oily water separator, you would agree, were questions about a piece of equipment that you don't have any reason to operate, no reason to maintain, no reason to repair, and no reason to ever use; right?
- A Yes. sir.
- Q So everything you know about the oily water separator is based on something someone else told you; right?
- A Yes sir.

See Exhibit "A," Transcript at page 30/line 12 through page 33/line 3.

On cross-examination, Mr. Manzanilla further testified to the following:

- Q Okay. Now, you're not authorized or qualified to report on the condition of the oily water separator . . . are you?
- A No, sir. Yes, sir. No, sir.
- Q Okay. So the answer to that would be no, you're not authorized or qualified; right?
- A Yes, sir.
- Q You agree with me?
- A Yes sir?

See Exhibit "A," Transcript at page 46/lines 1 through 9.

Additionally, Mr. Manzanilla testified that he never saw the purported "magic pipe" being used on board the M/V IRENE E.M, and that he never saw any oil or oily

wastes actually being discharged into the ocean. Specifically, Mr. Manzanilla testified, in relevant part, to the following during the Government's direct examination:

- Q Did you ever see the magic pipe being used during the voyage from Africa to Brazil?
- A No sir.
- Q You never saw it being used?
- A No sir.

See Exhibit "A," Transcript at page 13/lines 13 through 17.

Further in this regard, Mr. Manzanilla testified, during cross-examination, (and in relevant part), to the following:

- Q And now you yourself, in all the time that you were on board the ship, never turned on the pumps to pump anything overboard; right?
- A No. sir.
- Q Okay. Now, you yourself never turned off the pumps?
- A No. sir.
- Q Now, the whole time you were on board the ship, the captain never asked you to set up a magic pipe; right?
- A No, sir.
- Q And the companies, meaning the management company and the owning company, never asked you to set up a magic pipe?
- A No, sir.
- Q Okay. And Chief Engineer Dragomir never asked you to set up a magic pipe, right?
- A No, sir.
- Q And Second Engineer Villano, you know him, right?
- A Yes. sir.
- Q Okay. He never asked you to set up a magic pipe?
- A No. sir.
- Q In fact, no one asked you set up the magic pipe between Brazil and the United States.
- A No. sir.
- Q And in fact, the truth is, between Brazil and the United States, you never saw anything with your own eyes being discharged overboard?
- A That's what I remember, that I didn't see anything.

See Exhibit "A," Transcript at page 37/line 4 through Page 38/line 16.

In view of the foregoing testimony, Moving Defendants object to the introduction of the following testimony on the basis that it, inter alia, lacks foundation; calls for

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speculation; and calls for answers which are strictly inadmissible hearsay. Additionally, Moving Defendants object on the grounds that the Government's questions on direct examination are inappropriately leading, assume facts not in evidence and if admitted, would be unfairly prejudicial, confusing and otherwise misleading to the finder of fact:

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Page 6/line 23 - Page 7/line 2;
Page 7/line 10 - Page 8/line 9;
Page 12/line 20 - Page 13/line 12;
Page 14/line 5 - Page 17/line 7;
Page 18/line 24 - Page 21/line 4;
Page 42/lines 18-21; and
Page 42/line 23 - Page 43/line 21.
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Additionally, Moving Defendants object to the admission of the following testing on the following grounds:

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Page 10/line 2 – Page 12/line 8 (hearsay);
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Page 33/lines 4-21 (hearsay, relevance; lack of foundation; calls for speculation);

Page 42/lines 3-8 (relevance);

Page 43/line 23 - Page 45/5 (foundation; hearsay; calls for speculation; impermissibly goes beyond scope of direct and cross examination):

Page 48/lines 1-13 (relevance and foundation); and Page 49/lines 6-24 (hearsay; relevance).

CONCLUSION

For the reasons more fully set forth above, Moving Defendants respectfully request that this Honorable Court issue an Order:

(1) Granting Moving Defendants' application to exclude, either in its entirety or to the extent the Court finds just and proper, the foregoing objectionable

portions of the Rule 15 deposition testimony for the reasons more fully set forth above; and

(2) For any and all such other and further relief which the Court deems to be just and proper under the specific circumstances of this matter.

Respectfully submitted,

By: George M. Chalos

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Port Washington, NY 11050

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CERTIFICATE OF SERVICE

Document 32

I do hereby certify that, on this 6th day of November 2006, I have served a copy of the foregoing pleading on counsel for all parties to this proceeding, by Email and by mailing the same by United States mail, properly addressed, and first-class postage prepaid to the following:

> United States Department of Justice U.S. Attorney's Office Nemours Building 1007 N. Orange Street, Suite 700 Wilmington, Delaware 19801 Attn: Edmond Falgowski, Esq.

> United States Department of Justice **Environmental Crimes Section** P.O. Box 23985 L'Enfant Plaza Street Washington, D.C. 20026 Attn: Gregory Linsin, Esq. Jeffrey Phillips, Esq. Tracy Katz, Esq.

> > Respectfully submitted,

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EXHIBIT A

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

UNITED STATE OF AMERICA,

No.

Plaintiff,

: 1:06-CR-00076-GMS-2

vs.

CHIAN SPIRIT MARITIME
ENTERPRISES, INC., VENETICO
MARINE S.A., IRENE E/M,
EVANGELOS MADIAS, CHRISTOS
PAGONES, ADRIEN DRAGOMIR,

Defendants.

Videotaped deposition of MARIO MANZANILLA, taken pursuant to notice before Gail Inghram Verbano, CSR, RMR, in the offices of United States Department of Justice, 700 Nemours Building, 1007 Orange Street, Wilmington, Delaware, on Tuesday, July 18, 2006, beginning at approximately 3:24 p.m.

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2 (Pages 2 to 5)

	Page	2	Page 4
1	APPEARANCES:		MR. CHALOS: George Chalos,
2	MARK W. KOTILA, ESQ. JEFFREY L. PHILLIPS, ESQ.		2 Venetico Marine and Chian Spirit Maritime
3	United States Department of Justice		Enterprises.
4	Environmental Crimes Section P.O. Box 23985 - L'Enfant Plaza	Ì	MR. WOODWARD: Carl Woodward on
	Washington, DC 20026-3985		That if OOD WARD. Call Woodward on
5 6	Attorneys for Plaintiff		
٠	GEORGE M. CHALOS, ESQ. FOWLER, RODRIGUEZ & CHALOS		1124 1 WEIGHT . WHOHAEL I WEISKY OH
. 7	366 Main Street		behalf of the witness.
8	Port Washington, NY 11050 Attorney for Defendants Chian Spirit	8	" in the court reporter please
J	and Venetico Marine	9	administer the outro.
9	CARL N. WOODSLAND	10	(CINCID INTESTION I WAS PREVIOUSLY SWOTI
10	CARL R. WOODWARD, III, ESQ. CARELLA, BYRNE, BAIN, GILFILLAN,	11	
	CECCHI, STEWART & OLSTEIN	12	
11	5 Becker Farm Road	13	MARIO MANZANILLA, having first been
12	Roseland, NJ 07068-1739 Attorney for Defendant Dragomir	14	
13	ALSO PRESENT:	15	
14	Chris Weiss, Videographer Chris Masaoay, Tagalog Interpreter	16	
15	Cities triasavay, Lagarog interpreter	17	•
16	Adrien Dragomir	18	21001 2221/11/11101
. 10	Liviu-Lee Roth Brent McKnight	19	
. 17	Jason F. Burgess	ļ.	the state of the s
18 19	- • •	20	
20	•	21	oodid you for the court, where are
21		22	you from, your hometown?
· 22		23	A Bacolod City, Negros, Occidental.
24		24	Q And how old are you?
	3		Page 5
1	THE VIDEOGRAPHER: This is Chris	1	A 35.
2	Weiss, the videographer, and the court reporter today	2	
3	is Gail Verbano. We are both here from the firm of	3	Q And what is your occupation? A Seaman
4	Corbett & Wilcox, located at 230 North Market Street		
5	Wilmington, Delaware.	-{	Q And where do you normally work?
6	The time is 3:24 p.m. on Tuesday,	5	A In the engine.
7		. 6	Q As a seaman, I assume you work on ships?
8	July 18th, 2006. We are documenting the videotaped	7	A Yes, sir.
	deposition of Mario Manzanilla for the plaintiff in	8	Q How many ships have you worked on?
9	the matter of United States of America versus Chian	9	A Eight, sir.
10	Spirit Maritime Enterprises, Inc., Venetico Marine,	10	Q Including the last one?
11	Irene E.M., Evangelos Madias, Christos Pagones,	11	A Yes, sir.
12	Adrien Dragomir in the United States District Court,	12	Q And what kind of work do you do in the
13	District of Delaware.	13	engine?
14	We are at the location of the	14	A Cleaning the main engine, throwing
15	United States Attorney's office, Nemours Building,	15	garbage, assisting for the oilers and the officers.
16	1007 North Orange Street, Suite 700, Wilmington,	16	Q And assisting the oilers and officers, do
17	Delaware.	17	you ever work on an oily water separator?
18	Will the attorneys please state	18	A No, sir.
19	their appearance for the record.	19	
20	MR. PHILLIPS: Jeff Phillips, U.S.		Q Do you know what an oily water separator
	Government.	20	is?
22		21	A Yes, sir.
	MR. KOTILA: United States	22	Q Okay. How do you know what an oily wate
فسنت	Government - I mean Mark Kotila, United States	23	separator is?
	Government.	24	•

· ·			3 (Pages 6 to 9)
	Page 6		Page 8
1	in, I saw them operating it.	1	BY MR. PHILLIPS:
.2	Q Okay. And when you say you saw them,	2	the state of the s
3	describe what you saw.	3	-
4	MR. CHALOS: Objection.	4	
5	THE WITNESS: Sir, there is a pump,	5	
6	a suction coming from the bilge tank, and the bilge		
7	tank going into the overboard.	1 7	ind officers, move to
8	BY MR. PHILLIPS:	8	strike the portion of the answer nonresponsive to the question.
9	Q Okay. And going from the bilge tank	9	BY MR. PHILLIPS:
10	overboard, but you didn't say where the oily water	10	· · · · · · · · · · · · · · · · · · ·
11	separator was.	11	Q Did you eventually come to port in Africa?
12	A It was in the main engine after Pick.	12	
13	Q Okay. Now, when were you hired or	1	A What do you mean by that?
14	were you ever hired to work on the Irene?	13	Q After China, did the Irene go back on the
15	A Yes, sir.		sea?
16		15	A We went back again for a dry dock,
17	Q Do you remember when? A November 2004.	16	because there was a hold.
18		17	Q And then what?
19	Q And where did you board the Irene? A China, at the port of Lian Yun Gang	18	A So when it went to the dry dock, it got
20	, F Tan Cang.	19	fixed. And then we went into another travel going t
21	Q And when you boarded the Irene, did you	20	Thailand.
22	observe if the Irene had an oily water separator?	21	Q Did you eventually get to Africa?
23	A Yes, there is. I saw one.	. 22	A After Thailand, we went to Africa for
24	Q Did you observe if it worked?	23	discharging.
44	A When I boarded the ship, the separator	24	Q What do you mean?
	Page 7		Page 9
	was not working, the bilge pump was not in order, an	1 1	A We went to get some loading in Thailand,
: 2	the ship was in critical condition.	2	and so then we went to Africa to discharge.
3	Q Where did it go from the port you boarded	. 3	Q To discharge what you - what the ship
4	it? What was the next port?	4	carried?
5	A Guangzhou port for dry dock.	5	A Yes. It was rice.
6	Q Did you stay with the ship while it was	6	Q Rice. Okay.
7	in dry dock?	. 7	And when you were in Africa, do you
8	A Yes. For two months, I was working	8	remember what time that was? Month? year?
9	there.	9	A Africa, I don't remember that month.
10	Q Did you observe the oil/water separator	10	Q Do you remember the year?
11	while it was at dry dock?	11	A 2005, 2005,
12	MR. CHALOS: Objection.	12	Q Do you remember where you went from
1.3	THE WITNESS: The separator was not	. 13	Africa? From Africa, the next port?
14	working, and so we had to use an invincible pump to	. 14	A Brazil.
15	pump overboard.	15	Q Do you remember which month you arrived
16	BY MR. PHILLIPS:	16	in Brazil?
17	Q And then what happened after the dry	17	A I don't remember. I think January no,
18	dock?	18	no, wait.
19	A We left. We went to Hong Kong. But we	19	We came in November I think
	were not using that separator at that time. It was	20	October, like this. October.
	not working.	21	Q Okay. On board when you were in
22	MR. CHALOS: Objection; move to	22 .	Africa, who was your chief engineer; do you know?
	strike.	23	A Tomondong, the chief engineer before.
24	THE WITNESS: And then	24	Q Before what?

		1	The state of the s
	Page 10		Page 12
1	A Before the Chief Engineer Dragomir.	1	location of where it was hidden.
. 2	Q And did you ever talk to Chief Engineer	_ 2	Q Okay. Who asked you to hide it?
3	Tomondong?	3	MR. CHALOS: Objection.
4	A Yes. We worked together for quite some	4	BY MR. PHILLIPS:
5	time.	5	Q Did anyone ask you to hide it?
6	Q Did he ever give you orders?	6	A The previous chief engineer, Tomondong.
7	A Yes. Yes, sir.	7	Q He asked you to hide which pipe?
8	Q Do you recall any orders he gave you?	8	A The original, the hard pipe.
9	A Yes, sir.	9	Q Okay. Now, you eventually came to the
10	Q Tell us.	10	United States?
11	A He ordered me to pick out the hard pipe,	11	A Yes.
12	the original pipes of the bilge pump overboard, the	12	Q When did you know did you know you
13	line for overboard; to take out and change the magic	13	were coming to the United States before you arrived
14	pipe.	14	A Yes, sir, in Africa.
15	Q What is the magic pipe?	15	Q How did you find out?
16	A Here, sir.	16	A Because that was the news from the
17	MR. PHILLIPS: For the record, the	17	
18	witness pointed out Government Exhibit 2.	18	Superintendent Tanasi and the captain.
19	THE WITNESS: The flange.	19	Q Superintendent Tomasi?
20	MR. PHILLIPS: And also the flange,		A Tanasi.
21	as Government Exhibit 3.	20 21	Q Tanasi.
22			On the trip from Africa to Brazil,
23	THE WITNESS: (In English) The	22	after you hooked on the magic pipe, did you did
24	second engineer who fixed this one A The second engineer who fixed this one	23	you observe the magic pipe during the voyage?
	A The second engineer who fixed this one	24	MR. WOODWARD: Sorry. Context?
	Page 11		Page 13
1	THE WITNESS: (In English) And	1	THE WITNESS: Yes, it was fixed.
2	this stan		THE WITNESS. 168, It was fixed.
1	this, also.	2	MR. WOODWARD: Where which
3	THE WITNESS: And this also, this	2	
1			MR. WOODWARD: Where which voyage?
3	THE WITNESS: And this also, this one.	- 3	MR. WOODWARD: Where which
3 4	THE WITNESS: And this also, this	3 4	MR. WOODWARD: Where which voyage? MR. PHILLIPS: This is from Africa to Brazil.
3 4 5	THE WITNESS: And this also, this one. MR. PHILLIPS: And we'll get to	3 4 5 6	MR. WOODWARD: Where which voyage? MR. PHILLIPS: This is from Africa
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5 (Pages 14 to 17)

Page 14 A It was working. It was working. Q What was the bilge pump connected to? A It's connected to the bilge stank, the bilge pump - the bilge well and sludge tank. Q And where would the pumping - where would the liquid go? MR. CHALOS: Objection. THE WITNESS: Outside. PBY MR. PHILLIPS: Objection. THE WITNESS: - going overboard. PMR. CHALOS: Objection on the was wish going pump before that question? MR. WOODWARD: Voiled this magic pipe - the working. MR. WOODWARD: Wait a minute. Page 15 There's been no foundation for that. MR. PHILLIPS: The was the original foundation. MR. PHILLIPS: That was the original foundation. MR. CHALOS: Wait a minute. Page 15 There's been no foundation for that. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. When he testified, you asked if he said that it was working. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: You're going far beyond that. THE WITNESS: From Africa, yes. MR. CHALOS: Wait a minute. MR. WOODWARD: Wait a minute. MR. WOODWARD: Wait a minute. MR. WOODWARD: You're going far beyond that. The work working. The work working. The work work work work work work work work				5 (Pages 14 to 17)
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MR. CHALOS: You led this guy right 22 Q And did anybody else come on board? A had from this with an analysis on testimony that we've never 23 A The superintendent.		- · · · · · · · · · · · · · · · · · · ·	21	
24 had from this wife and based on testimony that we've never 23 A. The superintendent.		MR. CHALOS: You led this guy right	22	in the state of th
	_			A The superintendent.
24 nad from this witness. 24 Q Do you remember his name?	24	had from this witness.	24	

	4808 10 to 21)	
	Page 18	Page 20
1	A Yes, Christos.	1 MR. WOODWARD: During what period
2	Q And did you ever talk to him?	2 of time?
3	A Yes, sir.	3 MR. PHILLIPS: During his time on
4	Q And what did he say?	4 the ship.
5	A He told us that we should retract our	5 MR. WOODWARD: All 14 months?
- 6		6 MR. PHILLIPS: That's right.
7		7 MR. WOODWARD: How many times ov
8	A The engineers that are with me working:	8 14 months?
9	The second engineer, the third engineer, the fourth	9 MR. PHILLIPS: This is the
10	engineer, and the oiler, Robert.	10 question. I'm asking the question. If you're
11	Q And what did you say, if anything?	11 objecting, you can object.
12	A We told them we told him that we could	
13	not change it, because we had already done it, and	in the state of th
14	what is contained there is the truth and so we cannot	13 form of the question. I'm just trying to help you 14 out.
15	change it anymore; it's already there.	
16	Q And did you talk to him again?	international in
17	A When he talked to me again, before New	1 8 ,
18	Year's in the mess hall, when we were going down	THE INTERIOR REPERC. THERE WAS &
19	there, he said to us if we tell the truth, that's	18 response there.
20	what we should do so that we don't go to jail.	MR. WOODWARD: Look, you don't wan
21	Q Now, how many months total were you on	20 to put in the time, that's fine.
22	the Irene?	MR. PHILLIPS: I'm asking about his
23	A From what I remember, about 14 months.	22 entire time on the ship.
24	Q During that time, did the oil/water	MR. WOODWARD: Now you did, after
	2 During that time, and the on/water	24 you
	Page 19	Page 21
1	separator ever work?	1 MR. PHILLIPS: I already have.
2	MR. CHALOS: Objection.	2 THE WITNESS: From what I remember,
3	MR. WOODWARD: Leading.	3 many times.
4	THE WITNESS: No. You never use it	4 BY MR. PHILLIPS:
5	since the very first time.	5 Q Let's start again, just so the record is
6	BY MR. PHILLIPS:	6 clear.
7	Q So how was oily waste handled on the	7 How many months were you on the
8	Irene?	8 ship?
9	MR. CHALOS: Objection; no	9 A About 14 months, sir.
10	foundation.	Q During that time, how often did you see
11	MR. PHILLIPS: He's already said	11 overboard discharges?
12	he's worked in the engine room.	12 A Since the very beginning, I saw many
13	MR. CHALOS: Yeah. What so?	13 times. I saw it, they would pump it out since even
14	THE WITNESS: They used the bilge	when Tomondong was there. He was the chief engineer.
15	pump to pump overboard.	15 Q What about after Tomondong?
16	MR. CHALOS: One second. I'm	16 A After Tomondong left, I don't exactly
17	working in the U.S. Attorney's office, but I'm not a	17 remember how many times they did the pump-out.
18	government guy. Does that make him qualified?	18 Q So you don't remember how many times?
19	MR. PHILLIPS: No, but you know	19 A I don't remember exactly, but I believe
	what attorneys do.	20 maybe about three times.
20	what accordeys do.	
20	<u>-</u>	,
20 21	MR. CHALOS: All right. BY MR. PHILLIPS:	Q Three times in how long?
	MR. CHALOS: All right. BY MR. PHILLIPS:	Q Three times in how long? A That I saw. Since coming from Brazil
20 21 22	MR. CHALOS: All right. BY MR. PHILLIPS:	Q Three times in how long? A That I saw. Since coming from Brazil

			7 (Pages 22 to 25)
	Page 22		Page 24
ł	defense will have some questions for you.		1 a five-page document. Take a look at that documen
	2 CROSS-EXAMINATION		would you please, sir.
	3 BY MR. CHALOS:		My first question to you,
	Q Hi, Mr. Manzanilla. My name is George	1	4 Mr. Manzanilla, is that the first page and the
1.	5 Chalos. And I represent Chian Spirit Maritime		5 employment contract you signed to go to work on the
1	6 Enterprises and Venetico Marine in this proceeding	ζ.	6 Irene E.M.; correct?
1	Now, you know that Venetico Marine		7 A Yes, sir.
1	8 is the company that owns the ship; right?		Q And then the rest of the documents are
	22 That I don't know. I only lentember Chia	1	also documents that you signed in connection with
10	± '	10	your application to work on the Irene E.M.; right?
11	C ye zo you know that Chian Spirit is	11	A Yes, sir.
12	The state of the state, fight;	12	2 1226 take a fook at the second page of
14	12 105, 611.	13	that document, if you will. Now, that's a
	2 one, her and about now you got mis	14	
15	. •	15	Irene E.M.; correct?
16	roa wont to a crewing agent in the	16	A Yes, sir.
17	11 , 8 1	17	2 - 222 mate 15 John Signature on the bottom
19		18	left-hand side; right?
20	value you such interest your looking	i	, 5
21	3 9 6	20	2 - and in 1400, botote you were allowed to
22	A Yes, sir.	21	go to work on this ship, you had to go for some
23	the offenting agent offered you a	22	training; right?
24	job that you could either pick or not pick; right? A Yes, sir.	23	A Yes, sir.
		24	Q And in fact, you had to go to the office
1	Page 23		Page 25
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	4 1 and her cor to 80 to Mork ou tue	1	of your manning agent to learn about the company's
3		2	policies; right?
4		3	11 100, 511.
5	2 Time when you prexed to go on board the	4	Q And some of that training involved
6		5	learning about the company's safety management
7	A Yes, sir.	6	system; right?
8		7	A Yes, sir.
9	were signing up for was to be a wiper; right?	8	Q And the company's environmental protection policy; right? A Yes, sir.
10	A Yes, sir.	9	protection policy; right?
11	MR. CHALOS: Could we mark a couple	10	
12	documents. Take a break and take three minutes to	11	Q And you also learned that if you were in
13	mark some documents.	12	violation of the company's policies, you could be
14	THE VIDEOGRAPHER: Off the record	13 14	fired; right?
15	at 3:52.	15	A Yes, sir.
16	(Brief recess.)	16	MR. CHALOS: Okay. I'd like to
17	(Documents marked CSME Exhibits 29	17	move into evidence Defendants' Exhibit 29, which has
18	through 32 for identification.)	18	been identified by the witness.
19	THE VIDEOGRAPHER: On the record at	19	MR. PHILLIPS: No objection.
20	3:57.	20	(Document marked Exhibit CSME 29 moved into evidence.)
21	BY MR. CHALOS:	21	BY MR. CHALOS:
22	Q Mr. Manzanilla, I'm going to show you	22	· · · · · · · · · · · · · · · · · · ·
23	what we've marked as CSME Defendants' Exhibit No. 29.	23	Q I want to show you what we've previously marked and I believe moved into evidence as
24	For the record, I'll make a representation that it's	24	Exhibit 7, Mr. Manzanilla. And take a look at that
			The latter and take a look at that

	Page 26	1	Page 28
1		1	
. 2		2	
3		i	And I just ask you, Mr. Manzanilla,
4	· · · · · · · · · · · · · · · · · · ·	4	are these photocopies of some of the certificates you
5	-	5	received for the training courses you had attended
6	and the second s	6	before joining the Irene E.M.?
7	ship, was it not?	7	A Yes, sir.
8	A Yes, sir.	8	•
9	Q That was on the bulletin board in the	9	Q Okay. Now, you also attended classes
10	engine room; right? Right?	10	about MARPOL before you got on board the ship; right? A Yes, sir.
11	A Yes, sir. And in the mess hall.	11	
12	Q And also in the mess hall; right?	12	2 That you like will have to mogat to
13	A Yes, sir.		discharge oil or oily wastes overboard before you got
14	Q And in the hallways; right?	13	hired by the company to work on the Irene; right?
15		14	A Yes, sir.
16	A Yes. Yes, sir. Yes, sir. Q All right. Now, you also	15	Q And you also learned that at the training
17	7,5	16	seminar you went to for the company in the
18	MR. CHALOS: Okay. If that's not	17	Philippines; right?
19	moved into evidence, I'd like to move that into evidence with this witness.	18	A Yes, sir.
20		19	MR. CHALOS: Okay. I'd like to
21	MR. WOODWARD: That's CSME 30?	20	move into evidence Exhibit No. 31.
22	MR. CHALOS: CSME 7. We'll come	21	MR. PHILLIPS: No objection.
23	back to this in a second.	22	(Document marked CSME Exhibit 31
24	BY MR. CHALOS:	23	moved into evidence.)
24	Q I'd like to show you what was marked as	24	BY MR. CHALOS:
	Page 27		Page 29
1	Defendants' CSME Defendants' Deposition Exhibit 30	. 1	Q Okay. Now, Mr. Manzanilla, you've been
2	For the record, I'll make a representation that it's	2	going to sea for how many years?
3	a two-page document.	3	A Eight years.
4	Mr. Manzanilla, that document	4	Q And how many ships had you worked on?
5	contains a photocopy of the first page of your	5	A About eight, sir.
6	passport; right?	6	Q Okay. So based on your experience, you
7	A Yes.	7	would agree with me that the company who owned and
8	Q And also the first page of your seaman's	8	the company that managed the Irene E.M. were serious
9	book; right?	9	companies; right?
10	A Yeah.	10	MR. PHILLIPS: Objection; vague.
11	Q And that's you on there?	11	THE WITNESS: Yes, sir.
12	A Yeah.	12	BY MR. CHALOS:
13	Q And that is your photograph?	13	Q And in fact, before you were even
14	A Yes, sir.	14	permitted to go on board to start work, the company
15	Q With a different hair style?	15	required you to go for some examinations to make sure
	A Yes, sir. Long hair.	16	that you were both physically and mentally fit to do
16			the job; right?
16 17	MR. CHALOS: Okay. Now, I'd like	17	are loo, right
	MR. CHALOS: Okay. Now, I'd like to move that into evidence.	17 18	A Yes, sir.
17	f		A Yes, sir.
17 18	to move that into evidence.	18	A Yes, sir. Q And I'm going to show you what we've
17 18 19	to move that into evidence. MR. PHILLIPS: No objection.	18 19	A Yes, sir. Q And I'm going to show you what we've premarked as CSME Defendants' Exhibit No. 32, and ask
17 18 19 20	to move that into evidence. MR. PHILLIPS: No objection. (Document marked CSME Exhibit 30	18 19 20	A Yes, sir. Q And I'm going to show you what we've premarked as CSME Defendants' Exhibit No. 32, and ask you to take a look at that.
17 18 19 20 21	to move that into evidence. MR. PHILLIPS: No objection. (Document marked CSME Exhibit 30 moved into evidence.)	18 19 20 21	A Yes, sir. Q And I'm going to show you what we've premarked as CSME Defendants' Exhibit No. 32, and ask

		9 (Pages 30 to 33)
Page 30	44	Page 32
1 of the test results and the reports following your		
2 prejoining examinations?	1	1.11. Wanzanina, you would agree
3 A Yes, sir.	ł	with me that you don't have any responsibility to maintain the oily water separator?
4 MR. CHALOS: Okay. I'd like to		
5 move that into evidence.	Ī	
6 MR. PHILLIPS: No objection.		Q be that means you agree with me, yes?
7 MR. CHALOS: And also ask for our		11 100, 511.
8 court reporter to fix the exhibit.	8	2 It's also a correct statement that you
9 (Document marked CSME Exhibit 32	9	to repair the diff
10 moved into evidence.)	10	
11 BY MR. CHALOS:	11	
Q Now, I'd like to talk a little bit about	12	2 3 a don't make the decision to use the
13 what you do on board the ship, Mr. Manzanilla.	13	The state of the s
You're not a licensed engineer;	14	:0,511.
15 right?	15	2 This you don't make the decision not to
16 A No, sir.	16	and the are officer engineer decides not to use it.
Q You don't hold a license as an engineer?		A Yes, sir.
18 A No, sir. I'm just an oiler and a wiper.	18	
19 Q Okay. And on board the Irene E.M., you		Q So all questions Mr. Phillips asked you
20 weren't working as an oiler; right?	20	about the oily water separator, you would agree, were
21 A No, I'm a wiper.	21	questions about a piece of equipment that you don't
22 Q Okay. So when you were on the Irene	22	reason to operate, no reason to maintain, no
23 E.M., you were hired to work as a wiper, right?	23	reason to repair, and no reason to ever use; right? A Yes, sir.
24 A Yes, sir.	24	Q So everything you know about the oily
	3	
Page 21		The state of the s
Page 31		Page 33
1 Q And is it fair to say that a wiper is the	1	Page 33 water separator is based on something someone else
1 Q And is it fair to say that a wiper is the 2 lowest-ranking member of the engine room team?	1 2	The state of the s
1 Q And is it fair to say that a wiper is the 2 lowest-ranking member of the engine room team? 3 A Yes, sir.	1 2 3	Page 33 water separator is based on something someone else
1 Q And is it fair to say that a wiper is the 2 lowest-ranking member of the engine room team? 3 A Yes, sir. 4 Q Now, let's talk about the oily water	3 4	Page 33 water separator is based on something someone else told you; right? A Yes, sir. Q Okay. Now, you also said something about
1 Q And is it fair to say that a wiper is the 2 lowest-ranking member of the engine room team? 3 A Yes, sir. 4 Q Now, let's talk about the oily water 5 separator.	3 4 5	Page 33 water separator is based on something someone else told you; right? A Yes, sir. Q Okay. Now, you also said something about radar.
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1 Q And is it fair to say that a wiper is the 2 lowest-ranking member of the engine room team? 3 A Yes, sir. 4 Q Now, let's talk about the oily water 5 separator. 6 The oily water separator is 7 operated by the engineers; right?	3 4 5 6 7	Page 33 water separator is based on something someone else told you; right? A Yes, sir. Q Okay. Now, you also said something about radar. Now, you don't work on the bridge of the ship; right?
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10 (Pages 34 to 37)

Page 34 1 Q Now, you would agree with me that Chief 2 Engineer Tomondong never ordered you to discharge 3 anything overboard? 4 A No, sir. 5 Q So when you say "no, sir," you agree that 6 Chief Engineer Tomondong never strike that. Let 7 me rephrase my question. I stumbled on my words. 8 You would agree with me, right, 9 that Chief Engineer Tomondong never ordered you to 10 discharge anything overboard? 11 A No, sir. 12 Q When you say "no, sir," are you agreeing 13 with me? 14 A Yes, sir. 15 Q Okay. By the way, in addition to the 16 training that you took at the crewing agent and the 17 other training classes that you had, you also learned about pollution prevention? 19 A Yes, sir. 20 Q And at that maritime school, you also 10 learned about pollution prevention? 21 A Yes, sir. 22 Q All right. Now, you also learned, did 23 you not, that it was illegal to discharge oil or oily Page 35 1 wastes overboard; right? 2 A Yes, sir. 3 Q And you also learned the tif you shown to 2 and you never reported any to violations to either the management of company that owns the ship; right? 1 violations to either the management of company that owns the ship; right? 2 A Yes, sir. 3 Q And you also learned the tif you shown to a maritime school and you also learned the company that owns the ship; right? 2 A Yes, sir. 3 Q All right. Now, you also learned, did 4 you not, that it was illegal to discharge oil or oily Page 35 1 wastes overboard; right? 3 Q And you also learned the tif you shown to a mary that owns the ship; right? 4 A Yes, sir. 5 Q And then the next promotion oiler? 6 oiler? 7 A Yes, sir. 9 A Yes, sir. 10 A Yes, sir. 11 Q And then the next promotion engineer? 12 the chief engineer; right? 13 A Yes, sir. 14 Q And then the next promotion engineer? 15 A Yes, sir. 16 A Yes, sir. 17 Q All right. Now, in all the time were on board the ship, you never reported any to violations to the chief engineer? 18 A No, sir. 19 Q And now you never reported any to violations to either the management of company that owns the ship;	would be to would be to ne room is
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2 A Yes, sir. 2 company that owns the ship; right?	Page 37
3 O And you also learned don't company that owns the ship; right?	
	ompany or the
3 Q And you also learned that if you observed 3 A No, sir.	
1 4 anstroil or ailtreum to 1 1 1 1 1	
5 that your group and the state of the state	the time
6 00 40 46 C.1 1.	r turned on the
7 A V	right?
8 O All wicks Ni 17 d a co	
Q ne shout shief 41-41	ver turned off
Tomondong was on board and	
II the contain of the alim 111 o	
17 A No air II 1: 101 we	re on board the
12 if It a leasure of a first	et up a magic
14 O Mr Mongorille 71	
15 did We'll to the should have been asking you what you 14 A No, sir.	
16 Q And the companies, meaning	the management
17 company and the owning company, no	ever asked you to
18 A No sir I don't know the state of the set up a magic pipe?	
19 O And just as Illustration of the A No, sir.	
20 made a report to Vivilla of the V	
21 ship did you?	ragomir never
22 A No sir And I doubt	ragomir never
23 Q And Second Engineer Villand	?
24 course of the state of the s	?
24 couple of the things right. 24 A Yes, sir.	:?

11 (Pages 38 to 41)

					11 (Pages 38 to 41)
		Page 38			Page 40
:	1 Q	Okay. He never asked you to set up a		1 compa	mies didn't tell you to lie either; right?
	2 magic	pipe?	Ŧ	2 comp a	MR PHILITIS Objection of the
		No, sir.	j	answe	MR. PHILLIPS: Objection; asked and
4	4 Q	In fact, no one asked you to set up the	. 1	4	
1	_	pipe between Brazil and the United States.		_	THE WITNESS: No, sir.
6	6 A	No, sir.	į		R. CHALOS:
1 7	7 0	And in fact, the truth is, between Brazil	1 .	7 4 4	Okay. Now, even though you didn't talk
8	•	United States, you never saw anybody		7 to the	Coast Guard when they came on board, they
	dischar	rging anything overboard, did you?	1 .		you to write a statement; right?
10		Yes, sir.	i	9 A	Yes, sir.
11		So let me see if I'm clear.	1(And you did that?
12	*		11		Yes, sir.
13		Between Brazil and the United	12		And when you wrote it, it was the truth;
1	States,	you never saw anything with your own eye	!		12 m
14		discharged overboard.	14	l A	Yes, sir.
15		That's what I remember, that I didn't see	15	Q	Okay. And at the time wrote it, this guy
16		_	16	Christo	s wasn't even on board the ship yet; right?
17	•	Okay. Now, in fact, Mr. Manzanilla, just	17	' · A	No, sir, not yet.
18	so we'r	e clear, no one has ever asked you to hide	18	Q	Okay. Is it fair to say that when the
19		ng from the Government or the Coast Guard	iļ 19	Coast (Guard asked you to write a statement, that no
20	_		20	one had	d told you to lie to them?
21		No, sir. No, sir.	21	A	No, sir.
22	·Q	Not the chief engineer, Mr. Dragomir?	22		So you agree with me?
23	Α	No, sir.	23	_	Yes, sir.
24	Q	Not the captain of the ship?	24	-	Okay. So just so I'm clear about when
	····	Page 39		<u> </u>	Page 41
1	A	No, sir.	-	.4	
2	Q	Not the company?	1	this disc	cussion took place in the mess room, you had
3	Ā	The superintendent only.	2	aiready	given your statement to the Coast Guard;
4	Ô		3		
5	`	Okay. Now, the superintendent, he didn't	4		Let me try to remember that.
6	if you o	to hide anything, did he? What he asked w	Ī		I believe I had already given it.
7	II you c	ould retract the statement you made; right?	6		Okay. And then Mr. Christos asked if you
8	_	Yes, that's right, sir.	7	could re	tract the statement; right?
9	Q	So he didn't ask you to hide anything?	8		Yes.
1	A	No, sir.	9	Q	And you said that you couldn't, because
10	Q	Okay. Now, you also saw a man on board	10	you had	already told him the truth and given him your
11		Mr. Madias; right?	11	statemer	nt; right?
12		Yes, sir.	12	Α	Yes, sir.
13	Q	Now, Mr. Madias never asked you to hide	13	Q.	Okay. And you never lied to the Coast
14	anythin		14	Guard?	
15	_	No, sir.	15	Α	No, sir.
16	Q	And he never asked you to lie?	16		MR. CHALOS: Okay. One second,
17.	A	No, sir.	- 17	Mr. Man	
18	Q	And in fact, the captain never asked you	18		Okay. Nothing further.
19	to lie eit		19		MR. WOODWARD: I have no questions.
20		No, sir.	20		REDIRECT EXAMINATION
21		Okay. And Chief Engineer Dragomir never	21	BY MR.	PHILLIPS:
22	asked yo	ou to lie.	22		Mr. Manzanilla, when you were when I
23	Α	No, sir.	23	was aski	ng you questions, and you said that you had
24	Q	And you told us earlier today the	24	saw three	e overboard discharges from Brazil to the
233 / 257					out disonarges from Diazir to the

12 (Pages 42 to 45)

1 .	Page 42		Page 44
1	United States, is that still your testimony?	1	MR. WOODWARD: Objection; goes
2	A That's what I remember, sir.	2	
3	Q Okay. Now, going back to your employmen	t 3	MR. CHALOS: And cross.
4	contract, how much money does a wiper earn on the	4	MR. WOODWARD: Introducing an
5	Irene?	. 5	entirely new line of questioning.
6	A 230 only, sir.	6	BY MR. PHILLIPS:
7	Q Per year? Per month?	7	Q Go ahead and answer.
8	A A month.	8	•
9	Q Now, you testified, in response to	9	Q So you don't remember if he changed the
10	Mr. Chalos' questions that this was a serious	10	way
11	company. But specifically, were they serious about	11	A That I don't remember, sir.
12	preventing pollution?	12	Q Did they still use the magic pipe when
13	MR. WOODWARD: Objection	13	Chief Dragomir was on board?
14	MR. CHALOS: Objection.	14	MR. WOODWARD: Objection, goes
15	MR. WOODWARD: speculation.	15	
16	THE WITNESS: I don't know, sir.	16	beyond direct and cross. MR. CHALOS: And he testified he
17	BY MR. PHILLIPS:		
18	Q You testified that the Irene never had an	17	doesn't even work there.
19	•	18	THE WITNESS: They were still using
20	oily water separator that worked?	19	it.
	MR. CHALOS: Objection.	20	MR. PHILLIPS: Okay.
21	THE WITNESS: Yes, sir.	21	MR. CHALOS: That doesn't come in.
22	BY MR. PHILLIPS:	22	MR. PHILLIPS: For the record,
23	Q Now, you also testified that you were	23	Mr. Chalos asked several questions about all the
24	trained on pollution prevention and how to observe	24	engineers, the chief engineers, and whether they made
•	Page 43		Page 45
1.	oily waste going overboard.	-1	and any first than the state of
		1	orgers for overboard discharges. That's what this
2	MR. CHALOS: Objection. That	2	orders for overboard discharges. That's what this question relates to.
2 3			question relates to.
	MR. CHALOS: Objection. That	2	question relates to. MR. CHALOS: Anything else?
3	MR. CHALOS: Objection. That wasn't his testimony.	2 3	question relates to. MR. CHALOS: Anything else? MR. PHILLIPS: No further from me.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MR. CHALOS: Objection. That wasn't his testimony. MR. PHILLIPS: That was his testimony that was your question. BY MR. PHILLIPS: Q Now THE COURT REPORTER: What was the answer? THE INTERPRETER: He hasn't answered. "Yes, sir." Yes, sir, is the answer. BY MR. PHILLIPS: Q Now, can you tell when an oily water separator is working? MR. CHALOS: Objection. MR. WOODWARD: No foundation. THE WITNESS: It was not working. Since I boarded the ship, it had not been working. They just use it as an exhibit.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	question relates to. MR. CHALOS: Anything else? MR. PHILLIPS: No further from me. Thank you. RECROSS-EXAMINATION BY MR. CHALOS: Q Mr. Manzanilla, you told me that you yourself never saw any overboard discharges, and that's the truth; right? A Yes, sir. Q So when Mr. Phillips force-feeds you MR. PHILLIPS: Objection. This is MR. CHALOS: Okay. I'll rephrase. THE WITNESS: The only thing that I remember is that this equipment was attached. BY MR. CHALOS: Q Okay. So really the answer is that you never saw any overboard discharges between Brazil and the United States with your own eyes?

Page 46 1 Q Okay. Now, you're not authorized or qualified to report on the condition of the cily water separator to the company, are you? 4 A No, sir. Yes, sir. No, sir. 9 Q Okay. So the answer to that would be no, 6 you're not authorized or qualified; right? 7 A Yes, sir. 9 Q Okay. Now, and Mr. Phillips asked you about if you knew how oily wastes were handled on board, Do you remember that? 10 Q Okay. Now, and Mr. Phillips asked you about if you knew how oily wastes were handled on board, Do you remember that? 11 A Yes, sir. 12 Q And you also know that there were internal transfers from the blige wells to the blige holding tank was really big? 13 A Yes, sir. 14 Q You don't know who that was, do you? 15 A Yes, sir. 16 Q Okay. Now, and Mr. Phillips asked you about if you knew how oily wastes were internal transfers from the blige wells to the blige holding tank was really big? 16 A Yes, sir. 17 A Yes, sir. 18 Q And you also know that the blige holding tank was really big? 19 A Yes, sir. 10 Q In fact, the biggest one you've ever seen on any of the ships you've ever sailed on? 20 A Yes, sir. 21 Q More than 106 cubic meters, right, were Page 47 1 the capacity? 22 A Yes, sir. 23 Q And hat tank never filled up while you were on board, did it? 24 A We were there in Poland, and — what kind of tanks are we talking about now? 25 Q You remember in Poland that oily wastes were discharged to a shore facility; right? 26 A Because there's a lot of tanks, you know. 17 There's a blige tank, a sludge tank, a blige well. 18 A Poland, the sludge tank, a blige well. 29 C Now, Were Chief Engineer Dragomir and Chief Tomondong on the ship at the entire? 4 A No, sir. 4 A Pos, sir. 4 A Ja Poland, the sludge tank, yes. But they put it on shore in Poland through a suction. 4 A Pos, sir. 4 A Pos, sir. 5 Q And idit din't go to the sea? 7 Were from the ship to a shore facility; right? 4 A No, sir. 4 A No, sir. 4 A No, sir. 5 A Pos, sir. 6 Q Okay. And that was -that discharge were discharged to a shore	<u> </u>			13 (Pages 46 to 49)
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22 further. Thank you. 22 questions.		MR. CHALOS: Okay. Nothing	21	· ·
23 PEODOGO TYZA ZO ZA ZO Z		further. Thank you.	22	questions.
		RECROSS-EXAMINATION	23	MR. CHALOS: Nothing further.
24 MR. WOODWARD: Nothing further.	24		24	

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14 (Pages 50 to 52)	
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1 THE VIDEOGRAPHER: Off the record 2 at 4:30	1 CERTIFICATE OF SHORTHAND REPORTE
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(o-Bitatero maring occir warved, tile	I, Gail Inghram Verbano, CSR, RMR,
deposition of MARIO MANZANILLA was	4 the officer before whom the foregoing proceedings 5 were taken do hereby certify that the foregoing
5 concluded at 4:30 p.m.)	and the second country with the folesolls
. 7	6 transcript is a true and correct record of the 7 proceedings; that said proceedings were taken by me
8	8 stenographically and thereafter reduced to
9 INDEX	9 typewriting under my supervision; and that I am
10	10 neither counsel for, related to, nor employed by any
10 WITNESS: PAGE 11 MARIO MANZANILLA	11 of the parties to this case and have no interest.
12 36 76 11:	12 financial or otherwise, in its outcome.
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. 10	Gail Inghram Verbano, CSR, RMR CSR No. 8635
17 Mr. Phillips 48	Certification No.: 220
19	18 (Expires 1-31-2008)
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32 Physical and mental test results 23 10 for Mr. Manzanilla	
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